

1 **Marquis Aurbach Coffing**

2 Craig R. Anderson, Esq.

3 Nevada Bar No. 6882

4 10001 Park Run Drive

5 Las Vegas, Nevada 89145

6 Telephone: (702) 382-0711

7 Facsimile: (702) 382-5816

8 canderson@maclaw.com

9 Attorneys for Defendants Las Vegas Metropolitan Police Department, Ofc. Kyle Prior,
10 Ofc. Donald Sutton, and Ofc. Robert Nord

11 **UNITED STATES DISTRICT COURT**

12 **DISTRICT OF NEVADA**

13 CAROL LUKE, individually, and as
14 (Proposed) Special Administratrix of the
15 Estate of THOMAS JOSEPH MCENIRY,

16 Plaintiff,

17 vs.

18 LAS VEGAS METROPOLITAN POLICE
19 DEPARTMENT; KYLE PRIOR, individually
20 and in his official capacity; DONALD
21 SUTTON, individually and in his official
22 capacity; ROBERT NORD, individually and
23 in his official capacity; DOE OFFICERS 1-X
24 and DOES XI-XX, inclusive,

25 Defendants.

Case Number:
2:17-cv-02855-APG-GWF

26 **STIPULATION AND ORDER TO EXTEND DISCOVERY (FIRST REQUEST)**

27 Pursuant to LR 6-1 and LR 26-4, Plaintiff Carol Luke, individually, and as
(Proposed) Special Administratrix of the Estate of Thomas Joseph McEniry ("Plaintiff"), by
and through her counsel of record, E. Brent Bryson, Esq. of E. Brent Bryson, P.C. and
Defendants Las Vegas Metropolitan Police Department, Ofc. Kyle Prior, Ofc. Donald Sutton
and Ofc. Robert Nord ("LVMPD Defendants"), by and through their attorney of record,
Craig R. Anderson, Esq. of Marquis Aurbach Coffing, hereby stipulate and request that this
court extend discovery in the above-captioned case ninety (90) days, up to and including
December 28, 2018. In addition, the parties request that the expert deadline, dispositive

1 motion deadline and pre-trial order deadline be extended for an additional ninety (90) days
2 as outlined herein. In support of this stipulation and request, the parties state as follows:

3 **I. DISCOVERY COMPLETED TO DATE**

4 1. On November 14, 2017, Plaintiff filed her Complaint. ECF No. 1.

5 2. On February 12, 2018, the LVMPD Defendants filed a Motion for Partial
6 Dismissal. ECF No. 10.

7 3. On February 12, 2018, the LVMPD Defendants filed their Answer to
8 Plaintiff's Complaint. ECF No. 12.

9 4. On March 6, 2018, the Court granted the LVMPD Defendants' Motion for
10 Partial Dismissal. ECF No. 17.

11 5. On March 30, 2018, the parties submitted their Initial Discovery Plan and
12 Scheduling Order. ECF No. 19.

13 6. On April 20, 2018, Defendant Officer Robert Nord filed his Answer to the
14 Plaintiff's Complaint. ECF No. 21.

15 7. On April 17, 2018, Plaintiff filed her Initial Disclosure Statement of
16 Witnesses and Exhibits.

17 8. On April 25, 2018, the LVMPD Defendants filed their Initial Disclosure
18 Statement of Witnesses and Exhibits.

19 9. On May 11, 2018, the LVMPD Defendants served Plaintiff with
20 Interrogatories and Requests to Produce.

21 **II. WHY REMAINING DISCOVERY HAS NOT BEEN COMPLETED**

22 Plaintiff Carol Luke is seeking appointment as the administrator of the Estate of the
23 Decedent, Thomas Joseph McEniry. Plaintiff Luke must be appointed as the special
24 administrator of Decedent McEniry's Estate in order to have standing to pursue claims on
25 behalf of Mr. McEniry. In addition, Plaintiff Luke has had difficulty in obtaining documents
26 and information relevant to the LVMPD Defendants' initial written discovery requests.
27 Plaintiff is actively attempting to obtain this information.

1 Once Plaintiff Luke is appointed as the administrator of the Decedent's estate, the
2 LVMPD Defendants intend to serve additional written discovery. Once answers to all
3 written discovery is received, the LVMPD Defendants intend to begin taking the depositions
4 of the Plaintiff and any relevant witnesses. The parties agree that until all necessary
5 discovery has been completed, it is not worthwhile to identify experts and a brief extension,
6 is therefore, justified.

7 **III. DISCOVERY REMAINING**

8 1. Plaintiff Luke intends to file the necessary documentation to be appointed the
9 special administrator of the Estate of the Decedent, Thomas Joseph McEniry.

10 2. The LVMPD Defendants intend to take the depositions of Plaintiff Luke, the
11 Decedent's wife, and a security guard witness to the subject incident.

12 3. Plaintiff intends to take the depositions of the involved LVMPD officers and
13 the supervisors of the LVMPD officers.

14 4. The LVMPD Defendants intend to take the depositions of any expert
15 witnesses identified by Plaintiff.

16 5. Plaintiff intends to take the depositions of any expert witnesses identified by
17 the LVMPD Defendants.

18 6. The LVMPD Defendants intend to take the depositions of any damages
19 witnesses.

20 **IV. EXTENSION OR MODIFICATION OF THE DISCOVERY PLAN AND**
21 **SCHEDULING ORDER**

22 LR 26-4 governs modifications of extensions of the Discovery Plan and Scheduling
23 Order. Any stipulation or motion must be made no later than twenty-one (21) days before
24 the expiration of the subject deadline, and comply fully with LR 26-4. The parties
25 acknowledge that the expert deadline will pass on July 27, 2018. However, because Plaintiff
26 has had some difficulty in being appointed the special administrator of the Estate, this has
27 led the parties to delay certain discovery, the parties seek to have a new expert deadline and

discovery plan put in place so that they can determine what specific discovery needs to be done. Therefore, the parties believe it is in the best interest of the management of the case to extend the expert deadline until all necessary claims and parties are joined in the lawsuit.

The following is a list of the current discovery deadlines and the parties' proposed extended deadlines.

ACTIVITY	DATE	PROPOSED DEADLINE
Amend Pleadings or Add Parties	Tuesday, May 29, 2018	Passed
Expert Disclosures Pursuant to Fed.R.Civ.P. 26(a)(2)	Friday, July 27, 2018	Friday, October 26, 2018
Rebuttal Expert Disclosure Pursuant to Fed.R.Civ.P. 26(a)(2)	Tuesday, August 28, 2018	Wednesday, November 28, 2018
Discovery Cut-Off Date	Friday, September 28, 2018	Friday, December 28, 2018
Dispositive Motions	Monday, October 29, 2018	Tuesday, January 29, 2019
Joint Pretrial Order	Thursday, November 29, 2018	Friday, March 1, 2019

If dispositive motions are filed, the deadline for filing the Joint Pre-Trial Order will be suspended until thirty (30) days after the decision on the dispositive motions or further court order.

This request for an extension of time is not sought for any improper purpose or other purpose of delay. The parties have worked together at moving discovery forward and have conducted significant discovery up to this point. The parties have worked diligently at complying with the case's original deadlines, but the fact that Plaintiff has had some difficulty in being appointed the special administrator of the Estate has led the parties to delay certain discovery.

This is the first request for extension of time in this matter. The parties respectfully submit that the reasons set forth above constitute compelling reasons for the discovery extension.

1 WHEREFORE, the parties respectfully request that this court extend the discovery
2 period by ninety (90) days from the current deadline of September 28, 2018 up and until
3 including December 28, 2018, and the other discovery dates as outlined in accordance with
4 the table above.

5 APPROVED AS TO FORM AND CONTENT.

6 Dated this 25th day of July, 2018.

Dated this 25th day of July, 2018.

7 MARQUIS AURBACH COFFING

E. Brent Bryson, P.C.

8 By: s/Craig R. Anderson

By: s/E. Brent Bryson

9 Craig R. Anderson, Esq.

E. Brent Bryson, Esq.

10 Nevada Bar No. 6882

Nevada Bar No. 4933

10001 Park Run Drive

7730 W. Sahara Ave., #109

Las Vegas, Nevada 89145

Las Vegas, Nevada 89117

11 Attorney for Defendants LVMPD, Prior
12 and Sutton

Attorney for Plaintiff

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14 **ORDER**

15 IT IS SO ORDERED this 25th day of July, 2018.

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18 UNITED STATES MAGISTRATE JUDGE
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